LEGISLATIVE SERVICES AGENCY

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FISCAL IMPACT STATEMENT

LS 6069 | **NOTE PREPARED:** Dec 28, 2011
BILL NUMBER: SB 229 | **BILL AMENDED:**

SUBJECT: Exemption of Business Personal Property.

FIRST AUTHOR: Sen. Smith J | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill provides that business personal property located in a county may be exempted from property taxation: (1) through the adoption of an ordinance by majority vote of the county fiscal body; or (2) if the county fiscal body has not adopted such an ordinance, through the passage of a local public question by county voters.

The bill requires the Department of State Revenue (DOR) to separately account for Sales Tax collections that occur in or are otherwise sourced to a county in which business personal property is exempted from property taxation under these provisions. It requires the Treasurer of State to distribute monthly to the county treasurer an amount equal to 5% of the Sales Tax collected during the preceding month on retail transactions that occur in or are otherwise sourced to the county.

This bill provides that a county treasurer receiving such a distribution of Sales Tax: (1) shall deposit the taxes in a special fund; and (2) shall before the end of the month in which the taxes are received apportion and distribute the taxes among the taxing units of the county.

The bill requires the Department of Local Government Finance (DLGF) to reduce the maximum permissible property tax levy of each taxing unit in a county in which a business personal property tax exemption has been established. It specifies that the amount of the reduction is equal to the amount of property taxes on business personal property that is first due and payable to the taxing unit in the year containing the assessment date for which the exemption first applies.

Effective Date: July 1, 2012.

Explanation of State Expenditures: The DOR would incur additional expenses under this proposal. Some retailers with multiple locations file separate Sales Tax returns for each location. However, most retailers with multiple locations within the state file a consolidated return. The DOR does not currently track the county of origin for transactions reported on consolidated returns.

In order to capture the county of origin, retailers would either have to file separate returns for each location or file a county schedule along with their consolidated return. The DOR estimates the initial cost to process the county data from a schedule, including new forms design and reprogramming the Sales Tax system, at $325,000. Additional ongoing costs are estimated at $50,000 per year.

Explanation of State Revenues: *Summary:* Under this bill, the state would distribute 5% of Sales Tax revenue generated in a county if the county adopts a property tax exemption for all business personal property. If all counties adopt the personal property tax exemption, then the potential state loss would be about $343.8 M in FY 2013 and $356.5 M in FY 2014. These estimates are based on the December14, 2011, State Revenue Forecast.

Background: The state Sales Tax generated $6.27 B in FY 2011. Sales Tax revenue is deposited in the state General Fund (99.848%) the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Explanation of Local Expenditures:

Explanation of Local Revenues: *Summary:* Overall, the available Sales Tax distribution under this bill is significantly less than the potential levy reduction. Some counties may receive more revenue from Sales Tax than they were receiving from property tax on personal property. Some counties would receive less. The elimination of business personal property taxes in a county could, in turn, reduce circuit breaker losses. However, it would also reduce TIF funding in counties where personal property is subject to TIF. The effect on each county would vary depending on the amount of personal property in the county, the amount of Sales Tax generated in the county, local credits, and whether the county has personal property TIFs.

Background: This proposal would permit county fiscal bodies to adopt an exemption ordinance that provides a total exemption of business personal property in the county. If the exemption is adopted, the county could not subsequently eliminate the exemption.

In counties where the fiscal body has not adopted an exemption, a public referendum may be requested via a petition signed by at least 2% of the number of county voters who voted in the last Secretary of State election. Another referendum may not be held for four years if the measure is not approved. However, the county fiscal body would not be prohibited from adopting an exemption ordinance at any time.

If the exemption is approved by either the county fiscal body or the voters, all business personal property in the county would be exempt from property taxes beginning with the next assessment date. The DLGF would reduce the maximum permissible levies of all taxing units in the county that receive property taxes from the owners of personal property by the amount of those taxes. For taxing units that are at the maximum levy, the reduction in the maximum levy and resulting levy reduction would ensure that property taxes are not shifted from personal property to real property owners. Property tax rates would be unaffected. Almost all taxing units are currently at their maximum levies. In the future, however, if a taxing unit is not at the maximum levy when a county adopts the exemption, then the levy would not necessarily be reduced by the same amount as the maximum levy reduction. This would be a local decision.

In CY 2011, the gross levy attributed to personal property was $964 M, statewide. An additional $58 M in gross tax on personal property was attributed to TIF districts. The total net tax, after all credits including circuit breakers was $951 M. This amount includes all net tax including net tax attributed to TIF.

Counties that exempt personal property would receive distributions of Sales Tax equal to 5% of the tax generated in the county. If all counties adopt the personal property tax exemption, then the potential county income from Sales Tax would be about $343.8 M in FY 2013 and $356.5 M in FY 2014. The Treasurer of State would make monthly distributions to the treasurers of adopting counties. The county treasurers would distribute the Sales Tax revenue to civil taxing units and school corporations proportional to the levy reductions in the county.

Rate-Controlled Funds. While most levies are controlled by the maximum permissible levy, some funds, such as cumulative funds, have rate controls. A loss of assessed valuation would mean a revenue loss in these funds.

The total net assessed value of business personal property for property taxes payable in CY 2011 was $39.5 B, of which $2.1 B was subject to TIF. The remaining $37.4 B was a part of the tax base that generated revenue in rate-controlled funds. This is about 14.5% of the total tax base. If all counties adopt the personal property tax exemption, the elimination of this assessed valuation would reduce property tax revenue in the rate-controlled funds by about $133 M.

Locally Funded Property Tax Replacement Credits. In CY 2011, 19 counties provided property tax replacement credits (PTRC) to all taxpayers in those counties. These credits were funded with local option income taxes. The total amount of credits against business personal property was $11.5 M. If a county that has local PTRC credits adopts the personal property exemption, then the credits that had been paid on personal property in that county would be paid on real property instead.

There would be two effects if additional PTRC credits are paid on real property. First, if a taxpayer has not yet reached their circuit breaker limit, then the additional credits would reduce that taxpayer's net property tax bill. Second, if a taxpayer has reached their circuit breaker limit, then the additional credits would reduce the circuit breaker credits for that taxpayer and could reduce that taxpayer's net property tax bill if the PTRC credits exceed the amount of circuit breaker credits. A reduction in circuit breaker credits would reduce circuit breaker losses for local civil taxing units and school corporations.

Circuit Breaker Credits. In CY 2011, local civil taxing units and school corporations lost almost $62 M, statewide, in property tax revenue due to circuit breaker credits for personal property. If a county adopts the personal property exemption, then the circuit breaker losses attributable to business personal property would be eliminated.

TIF. In CY 2011, $58 M in gross tax on personal property was attributed to TIF districts. Net TIF proceeds from personal property were about $54 M. If a county adopts the personal property exemption then the TIF districts in that county would no longer receive any property tax revenue from personal property.

State Agencies Affected: DOR; DLGF; Treasurer of State.

Local Agencies Affected: All local civil taxing units and school corporations.

Information Sources: LSA Property Tax Database; County Auditor Abstracts; Tom Conley, DOR; December 14, 2011, State Revenue Forecast.

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